

DARRYL M. WOO (CSB NO. 100513)
dwoo@fenwick.com
CHARLENE M. MORROW (CSB NO. 136411)
cmorrow@fenwick.com
PATRICK E. PREMO (CSB NO. 184915)
ppremo@fenwick.com
BRYAN A. KOHM (CSB NO. 233276)
bkohm@fenwick.com
FENWICK & WEST LLP
555 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (415) 875-2300
Facsimile: (415) 281-1350

Attorneys for Defendants and Counterclaimants
AMBU A/S, AMBU INC., AND AMBU LTD.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THE LARYNGEAL MASK COMPANY LTD.
and LMA NORTH AMERICA, INC.,

Plaintiffs,

v.

AMBU A/S, AMBU INC., and AMBU LTD.,

Defendants,

AND RELATED COUNTERCLAIMS.

Case No. 3:07-cv-01988 DMS (NLS)

Jury Trial Demanded

**DECLARATION OF DARRYL M. WOO IN
SUPPORT OF DEFENDANTS' MOTION FOR
RECONSIDERATION OF ORDER GRANTING
PLAINTIFFS' MOTION FOR LEAVE TO TAKE
FIVE DEPOSITIONS BEYOND THE
PRESUMPTIVE LIMIT OF F.R.C.P.
30(a)(2)(A)(i)**

Date: September 15, 2009

Time: 2:00 p.m.

Courtroom: F, 1st Floor

The Honorable Nita L. Stormes

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| Expert Report of Creighton Hoffman Regarding Damages | 1 |
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1 I, Darryl M. Woo, declare as follows:

2 1. I am an attorney at law duly licensed to practice in California and am admitted to
3 this district. I am a partner with the law firm of Fenwick & West, LLP, counsel for Defendants
4 Ambu A/S, Ambu, Inc., and Ambu Ltd. (collectively, “Ambu”). I have personal knowledge of
5 the matters set forth herein, and if called upon to do so, could testify competently thereto.

6 2. LMA submitted its Motion for Leave to Take Five Depositions Beyond the
7 Presumptive Limit of Federal Rule of Civil Procedure 30(a)(2)(A)(i) on June 2, 2009. Ambu
8 submitted its opposition thereto on June 18, and LMA submitted its reply brief on June 25. At the
9 time briefing closed as to LMA’s motion, all of the accused devices remained at issue and LMA
10 was seeking many tens of millions of dollars in damages as to that collective whole. Attached
11 hereto as **Exhibit A** is a true and correct copy of the expert report of LMA’s damages expert,
12 Creighton G. Hoffman. The report, which was served on June 19, 2009, when all of the accused
13 devices remained at issue, concluded that LMA was entitled to damages of at least \$20 million
14 dollars, excluding prejudgment interest. [Ex. A, p. 3.] The three product lines as to which
15 summary judgment of non-infringement was granted accounted for nearly all of Ambu’s sales of
16 the devices accused of infringement in the litigation by LMA. Indeed, Exhibit G of Mr.
17 Hoffman’s report shows Ambu’s total sales for the accused AuraFlex were less than \$150,000.
18 [Ex. A, ex. G (Ambu’s Laryngeal Mask Sales), see sales figures for “original devices” for
19 AuraFlex from Q1 2007 through Q1 2009.]

20 3. Information pertaining to the alleged wrinkle and indentation manufacturing defects
21 in Ambu’s laryngeal mask products is relevant, if at all, only to the issue of patent damages. The
22 wrinkle and indentation defects relate to a manufacturing irregularity that occurred after Ambu
23 removed the reinforced tip—the alleged patented improvement—from its laryngeal masks.

24 4. Mr. Arvai is the Chief Financial Officer of Ambu A/S, not of Ambu, Inc., and
25 though these Ambu entities collectively are counterclaimants, no damages are being sought for any
26 harm to Ambu A/S for their unfair competition and false advertising counterclaims. [See Ambu’s
27 Damages Expert Report of Ryan Sullivan, Ph.D., a true and correct copy of which is attached
28 hereto as **Exhibit B**.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct, and that this declaration was executed this 17th day of August, 2009 in San Francisco, California.

Darryl M. Woo

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court’s CM/ECF system per Local Rule 5.2 on August 17, 2009.

By: /s/ Darryl M. Woo
Darryl M. Woo
E-mail: dwoo@fenwick.com

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW